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## Memorandum

To: Board of County Commissioners

From: Board of Adjustment (Phil Connelly, Chair) PC

CC: Planning Department  
County Attorney's Office

Date: November 28, 2007

Re: Legal counsel, Board training

On November 26, the Board of Adjustment (BOA) held its regular meeting to discuss administrative matters and other pending business. At that meeting, the Board voted unanimously to forward a formal request to the Commissioners seeking action on the items below by Friday, December 14. In summary, we feel there is a legitimate need for the Board to have regular legal counsel and proper training in order to fulfill the duties assigned to us, and we would respectfully request the Commissioners' support in these matters.

### Legal Counsel

In a memorandum dated July 25, 2007, Ravalli County Attorney George Corn informed the Commissioners that he had directed Alex Beal, Deputy County Attorney, to have "no further contact with the Board of Adjustment". Until that time, Beal served as the County's legal counsel to the BOA. To our knowledge, there has been no change in the County Attorney's policy since the issuance of that memo.

At this time, the only legal counsel available to the BOA is provided through the Montana Association of Counties, and our appointed attorney is only contracted to represent the Board in a particular lawsuit. For all other matters requiring legal counsel, no attorney has been assigned to advise the BOA. As an example, one legal question that has been posed by the BOA, and has yet to be resolved, is whether public comments delivered during public hearings may be limited to written comments exclusively.

Given the background above, we respectfully request that the Commissioners address the following questions:

1. Does the BOA have access to legal counsel through the County Attorney's Office?
2. If so, how may we access and utilize legal counsel?
3. If not, may we expend County funds to obtain legal counsel from an outside source?

### **Variance Review Training**

At an August meeting of the Board of County Commissioners, it was indicated that the Board of Adjustment had not received proper training in procedures for analyzing and deciding on zoning variance requests. At the BOA's August 27 meeting, the Board voted unanimously to request that the Commissioners hire Bozeman attorney Susan Swimley to design and conduct the necessary training for the BOA.

The sentiment among BOA members is that, if such training is to take place, it should be conducted in the very near future, before other potential zoning variance requests are submitted. The current lull in the BOA's workload would provide an opportune time for such training to occur.